

**ASSEMBLY BILL**

**No. 249**

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**Introduced by Assembly Member Obernolte**

February 9, 2015

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An act to amend Section 1237 of, and to add Section 1237.2 to, the Penal Code, relating to appeals.

LEGISLATIVE COUNSEL'S DIGEST

AB 249, as introduced, Obernolte. Criminal courts: appeals: fees.

Existing law allows an appeal to be taken by the defendant from a final judgment of conviction, except that existing law prohibits an appeal by the defendant from a judgment of conviction on the ground of an error in the calculation of presentence custody credits, unless the defendant first presents the claim in the trial court at the time of sentencing, or if the error is not discovered after sentencing, the defendant first makes a motion for correction of the record in the trial court.

This bill would prohibit a defendant from taking an appeal from a judgment of conviction solely on the ground of an error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs unless the defendant first presents the claim in the trial court at the time of sentencing, or if the error is not discovered until after sentencing, the defendant first makes a motion for correction in the trial court.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1237 of the Penal Code is amended to read:

1237. An appeal may be taken by the defendant *from both of the following*:

(a) ~~From a final judgment of conviction except as provided in Section 1237.1 and Section 1237.5. Except as provided in Sections 1237.1, 1237.2, and 1237.5, from a final judgment of conviction.~~

A sentence, an order granting probation, or the commitment of a defendant for insanity, the indeterminate commitment of a defendant as a mentally disordered sex offender, or the commitment of a defendant for controlled substance addiction shall be deemed to be a final judgment within the meaning of this section. Upon appeal from a final judgment the court may review any order denying a motion for a new trial.

(b) From any order made after judgment, affecting the substantial rights of the party.

SEC. 2. Section 1237.2 is added to the Penal Code, to read:

1237.2. An appeal may not be taken by the defendant from a judgment of conviction on the ground of an error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs unless the defendant first presents the claim in the trial court at the time of sentencing, or if the error is not discovered until after sentencing, the defendant first makes a motion for correction in the trial court. This section only applies in cases where the erroneous imposition or calculation of fines, penalty assessments, surcharges, fees, or costs are the sole issue on appeal.